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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/966,054	09/28/2001	Fernando A. Mujica	TI-32182	4360
23494	7590	06/28/2005	EXAMINER	
TEXAS INSTRUMENTS INCORPORATED			JOSEPH, JAISON	
P O BOX 655474, M/S 3999			ART UNIT	
DALLAS, TX 75265			PAPER NUMBER	

2634

DATE MAILED: 06/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/966,054

Applicant(s)

MUJICA, FERNANDO A.

Examiner

Jaison Joseph

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 11, and 18 - 20 is/are rejected.
- 7) ☒ Claim(s) 2 - 10 and 12 - 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The indicated allowability of claims 11 – 17 is withdrawn in view of the newly discovered reference(s) to Mujica et al. (US Patent 6,480,068 B1). Rejections based on the newly cited reference(s) follow.

Response to Arguments

Claims 1 – 14 are pending in the instant application.

Applicant's arguments, see page 6, lines 15 - 20, filed 03/28/2005, with respect to the rejection(s) of claim(s) 1 and 18 under 35 U.S.C §103 (a) and 35 U.S.C § 102(b) respectively have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Mujica et al. (US Patent 6,480,068 B1) and Giebel (US Patent 6,073,848) respectively. See the rejections below.

Double Patenting

Claims 1 and 11 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 17 of U.S. Patent No. 6,480,068 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the claim 1 of instant application and claim 17 of patent claim a method for gain control in a digital subscriber line system with plurality of interleaves gain and filter stages, comprising selecting an order for said gain stages, initializing each of said plurality of gain stages to respective minimal gain

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setting, wherein each gain stage has a plurality of incremental gain settings; and for a first iteration each gain stages in said selected order, increasing a corresponding gain setting by one increment; determining a peak average of a plurality of data frames received for a present gain setting; and if said peak average is greater than a peak target, reduce said gain setting by one increment and proceed to next gain stage in said selected gain stage order; otherwise increase said gain setting by one increment and return to said act of determining a peak average.

Regarding claim 11, claimed method including the features corresponding to subject matter mentioned above rejection of claim 1 is applicable here to.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Giebel (US Patent 6,073,848).

Regarding claim 18, Giebel teaches a automatic gain control circuit having plurality of serially coupled gain stages and adapted to receive data signal, an analog to digital converter adapted to receive a data signal from AGC and a processor coupled to said analog to digital converter and adapted to select a gain setting of each of sad gain stages in predetermined order, said processor further adapted to execute instructions for selecting a incremental gain setting which provides nonsaturated signal condition. (see figure 3).

Regarding claim 19, which inherits the limitations of claim 18, Giebel further teaches that gain stages comprise programmable gain amplifiers.

Regarding claim 20, which inherits the limitations of claim 18, Giebel further teaches that processor is a digital signal processor (see column 6, lines 18 – 20).

Allowable Subject Matter

Claims 2 – 10 and 12 – 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jaison Joseph whose telephone number is (571) 272-6041. The examiner can normally be reached on M-F 8:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stephen Chin can be reached on (571) 272-3056. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jaison Joseph
06/21/2005



STEPHEN CHIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600